

# HOUSE BILL 349

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2lr1015  
CF SB 889

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By: **Delegates Clippinger, Wilson, Anderson, Arora, Dumais, Glenn, Guzzone, Hough, A. Kelly, Lee, Luedtke, McComas, McDermott, A. Miller, Parrott, Simmons, Smigiel, Valentino-Smith, and Waldstreicher**

Introduced and read first time: January 30, 2012

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Misdemeanor Possession of Child Pornography – Statute of**  
3 **Limitations**

4 FOR the purpose of altering the period of time within which a prosecution for  
5 misdemeanor possession of child pornography must be instituted after the  
6 offense was committed; and generally relating to the statute of limitations for  
7 misdemeanor possession of child pornography.

8 BY repealing and reenacting, without amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 5–106(a)  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2011 Supplement)

13 BY adding to  
14 Article – Courts and Judicial Proceedings  
15 Section 5–106(bb)  
16 Annotated Code of Maryland  
17 (2006 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Criminal Law  
20 Section 11–208

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2002 Volume and 2011 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Courts and Judicial Proceedings**

6 5–106.

7 (a) Except as provided by this section and § 1–303 of the Environment  
8 Article, a prosecution for a misdemeanor shall be instituted within 1 year after the  
9 offense was committed.

10 **(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 11–208**  
11 **OF THE CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN ~~3~~ 2 YEARS**  
12 **AFTER THE OFFENSE WAS COMMITTED.**

13 **Article – Criminal Law**

14 11–208.

15 (a) A person may not knowingly possess and intentionally retain a film,  
16 videotape, photograph, or other visual representation showing an actual child under  
17 the age of 16 years:

- 18 (1) engaged as a subject of sadomasochistic abuse;
- 19 (2) engaged in sexual conduct; or
- 20 (3) in a state of sexual excitement.

21 (b) (1) Except as provided in paragraph (2) of this subsection, a person  
22 who violates this section is guilty of a misdemeanor and on conviction is subject to  
23 imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

24 (2) A person who violates this section, having previously been  
25 convicted under this section, is guilty of a felony and on conviction is subject to  
26 imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

27 (c) Nothing in this section may be construed to prohibit a parent from  
28 possessing visual representations of the parent's own child in the nude unless the  
29 visual representations show the child engaged:

- 30 (1) as a subject of sadomasochistic abuse; or
- 31 (2) in sexual conduct and in a state of sexual excitement.

1 (d) It is an affirmative defense to a charge of violating this section that the  
2 person promptly and in good faith:

3 (1) took reasonable steps to destroy each visual representation; or

4 (2) reported the matter to a law enforcement agency.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2012.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.